

**ATTACHMENT B**

Specific Corrections to Nextel Partners' ETC Petition

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## SUMMARY

Nextel Partners is seeking designation as an Eligible Telecommunications Carrier pursuant to Section 214(e)(6) of the Communications Act of 1934, as amended (the “Act”) in certain Designated Areas in the state of Tennessee, including specified wire centers of a non-rural ILEC covered in their entirety and ~~a rural telephone company study~~ area.

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**Deleted:** . To the extent necessary for designation as an ETC in the rural telephone company study area that is only partially covered, Nextel Partners seeks redefinition of the study areas to split the study area into two separate service areas. Nextel Partners has submitted a list of wire centers for the rural study area partially covered.

Designation of Nextel Partners as an Eligible Telecommunications Carrier is appropriate, since Nextel Partner meets all of the criteria set forth in Section 214 of the Act, and in Part 54 of the Commission’s Rules. In addition, designation of Nextel Partners as an ETC in the indicated rural telephone company study area is supported by the public interest in light of the innovative services and consumer choice that Nextel Partners’ presence can bring to bear in those areas.

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**Deleted:** . To the extent that Nextel Partners requests redefinition of a rural telephone company service area, Nextel Partners’ request complies with applicable law, meets the concerns noted by the Joint Federal-State Board and is in the public interest.

Before the  
**FEDERAL COMMUNICATIONS COMMISSION**  
Washington, DC 20554

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In the Matter of	)	
	)	
Federal-State Joint Board on	)	File No.
Universal Service	)	
	)	
<b>NPCR, INC. d/b/a NEXTEL PARTNERS</b>	)	
	)	
Petition for Designation as an	)	
Eligible Telecommunications Carrier	)	
in the State of Tennessee	)	
_____	)	

**PETITION FOR DESIGNATION AS AN ELIGIBLE  
TELECOMMUNICATIONS CARRIER IN THE STATE OF TENNESSEE**

NPCR, Inc. d/b/a Nextel Partners (“Nextel Partners”), by its undersigned counsel and pursuant to Section 214(e)(6) of the Communications Act of 1934, as amended (the “Act”), hereby submits this Petition for Designation (“Petition”) as an eligible telecommunications carrier (“ETC”) in the State of Tennessee. Nextel Partners is licensed to, and provides, wireless telecommunications services throughout certain designated areas (the “Designated Areas”) of the State of Tennessee.<sup>1</sup> Nextel Partners seeks designation as an ETC for both wire centers of a non-rural incumbent LEC as well as the study area of a rural telephone company as defined in Section 153(37) of the Act.<sup>2</sup> As demonstrated herein, Nextel Partners meets all of the requirements for designation as an ETC in each of these Designated Areas and respectfully requests that the Commission promptly grant this Petition.

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<sup>1</sup> Nextel Partners holds A, B and C Block EA licenses in the northeast part of Tennessee.

<sup>2</sup> A list of the rural telephone company study area and non-rural incumbent LEC wire centers for which Nextel Partners seeks designation in this Petition (also referred to herein as the “Designated Areas”) is set forth as **Attachment 1** hereto.

CMRS carriers, and in particular, does not accept jurisdiction over Nextel Partners for the purpose of an ETC status determination, is attached to this Petition as **Attachment 2**. This letter meets the Commission's specific requirements, in that it specifies that Nextel Partners is not subject to regulation in the State of Tennessee for purposes of determinations concerning eligibility for ETC status. Nextel Partners accordingly requests that the FCC designate Nextel Partners as "a common carrier providing telephone exchange service and exchange access that is not subject to the jurisdiction of a state commission" pursuant to 47 U.S.C. § 214(e)(6).

**C. Nextel Partners Will Advertise the Availability of Supported Services**

Nextel Partners will advertise the availability of the above-described services and the charges therefore using media of general distribution, in accordance with the requirements of Section 54.201(d)(2) of the Commission's Rules, 47 CFR § 54.201(d)(2). Nextel Partners currently advertises the availability of its services, and will do so for each supported service on a regular basis, in newspapers, and magazines, or on radio and television, that constitute media of general distribution in Designated Areas of the State of Tennessee.

**II. Nextel Partners Requests Designation Throughout Each of the Designated Areas Within Its Service Coverage**

Nextel Partners is not a rural telephone company as defined in Section 153(37) of the Communications Act, 47 U.S.C. § 153(37). Accordingly, Nextel Partners is required to describe the geographic area(s) within which it requests designation as an ETC. Nextel Partners requests designation as an ETC throughout each of the Designated Areas within the State of Tennessee, as set forth in **Attachment 1**. As noted above, these Designated Areas consist both of specific wire centers of non-rural incumbent LECs and a rural ILEC study area.<sup>3</sup> In **Attachment 3** hereto,

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<sup>3</sup> Wireless service is inherently affected by conditions unique to wireless service providers and which conditions do not affect wireline service providers. Geography, atmospheric conditions and man-made radiofrequency and physical structure interference may at

Nextel Partners provides a map of its service area, within which Nextel Partners provides service to the Designated Areas listed in **Attachment 1** hereto.<sup>4</sup> In the case of the non-rural ILEC wire centers served by Nextel Partners, as discussed immediately below, the Commission may designate Nextel Partners as an ETC without redefining the service areas of the non-rural ILEC.

**Deleted:** Since Nextel Partners covers only a portion of the indicated rural telephone company study area (SAC<sup>5</sup> 290567 United Inter-MT-TN), Nextel Partners specifically requests designation as an ETC for those portions of the rural telephone company service area served by Nextel Partners, as discussed in **Section V** hereof.

**III. In Accordance with 47 U.S.C. § 214(e)(6), Nextel Partners Is Entitled to Be Designated as an ETC in Non-Rural Wire Centers**

To the extent Nextel Partners is serving non-rural wire centers and providing the services set forth in Section I of the present Petition as required by Section 214(e) the Act and the FCC's implementing rules, as set forth in 47 C.F.R. Section 54.201(c), Nextel Partners is entitled to be granted ETC status by the Commission with respect to the non-rural wire centers attached hereto as **Attachment 1**. See 47 U.S.C. § 214(e)(6).

**IV. Designation of Nextel Partners as an ETC for the Designated Areas Served by a Rural Telephone Company In the State of Tennessee Would Serve the Public Interest**

One of the Designated Areas in which Nextel Partners seeks certification is a service area served by a rural telephone company as defined in

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times reduce or increase a wireless user's coverage area. At the same time, the mobility and functionality of wireless phone service adds immense benefits and convenience to wireless users that wireline providers cannot match.

<sup>4</sup> For purposes of this Petition, the coverage map provided in **Attachment 3** hereto reflects the result of a conservative radiofrequency propagation analysis assuming a one-watt wireless phone at -105dB.

<sup>6</sup> See Declaration of Donald Manning, **Attachment 5** hereto.

Designation of Nextel Partners as an ETC will also serve the public interest in all of the Designated Areas because Nextel will provide all of the supported services required by the Commission, will participate in the LifeLine and Link-Up programs as required by the Commission's Rules, and will otherwise comply with all FCC Rules governing universal service programs, which are designed to ensure that the public interest standards of the Act are achieved. Allowing Nextel Partners access to universal service subsidies will allow Nextel Partners to continue to enhance and expand its network infrastructure to better serve consumers in underserved, high-cost areas of the State of Tennessee, and to compete with other carriers on a level regulatory playing field.

Finally, designation of Nextel Partners as an ETC will serve the public interest in all of the Designated Areas by further promoting the extensive role Nextel Partners plays in the provision of communications services to Tennessee universities, colleges, public schools, libraries and local, state and federal government agencies, specifically law enforcement. At the time of this filing, Nextel Partners provides wireless service to 5 Tennessee public universities, colleges, schools and libraries, 6 divisions of Federal Government agencies in Tennessee, 11 state-level agencies, and 6 local government agencies, including police, fire and similar first-responders. Moreover, many individuals who work for these organizations and government agencies have obtained Nextel Partners as a service provider, and utilize the Nextel Partners network in connection with their official duties.

Accordingly, designation of Nextel Partners as an ETC will serve the public interest.

## V. Anti-Drug Abuse Certification

**Deleted: <#>Since Nextel Partners Serves Only a Portion of a Rural Telephone Company Service Area in Tennessee, Nextel Partners Requests That the FCC Propose A Redefinition of that Service Area**

¶ Nextel Partners covers only part of a rural telephone company study area, 290567 United Inter-MT-TN. Nextel Partners requests designation as an ETC for its entire service area in Tennessee, including specific portions of this rural study area that are covered by Nextel Partners. To this end, Nextel Partners has specified in **Attachment 1** with respect to the indicated rural telephone company study area the list of wire centers that Nextel Partners does cover in their entirety, and for which designation as an ETC is requested. ¶ Nextel Partners specifically requests that the Commission propose a redefinition of the indicated rural telephone company study area so that the wire centers served by Nextel Partners may be designated as a single service area, and the remaining wire centers not served by Nextel Partners in each instance may be designated as a separate service area.¶ This proposed redefinition of the indicated rural telephone company service area is consistent with the Joint Board's analysis. Pursuant to 47 C.F.R. Section 54.207(c)(1), a petition to redefine a rural LEC service area must contain "an analysis that takes into account the recommendations of any Federal-State Joint Board convened to provide recommendations with respect to the definition of a service areas served by a rural telephone company." Nextel Partners has requested that the Commission redefine the service area of 290567 United Inter-MT-TN.¶ In *Federal-State Joint Board on Universal Service, Recommended Decision*, 12 FCC Red 87 (1996) ("Recommended Decision"), the Joint Board listed three factors that must be considered in the context of redefinition of a rural service area. First, it must be considered whether the competitive carrier is attempting to "cream-skim" by proposing to serve only the lowest cost exchanges. See *Recommended Decision* at 180. In the case of Nextel Partners, Nextel Partners' service territory is governed by the grant of license authority from the Federal Communications Commission under various site-specific and geographic area licenses. Nextel Partners' build-out of its licensed service area in Tennessee has been carried out as mandated by the construction deadlines and population coverage requirements under Nextel Partners' licenses, and does not reflect any intent on Nextel Partners' part to serve only the lowest-cost ... [1]

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No party to this Petition is subject to denial of federal benefits pursuant to Section 5301 of the Anti-Drug Abuse Act of 1988, 21 U.S.C. Section 862.<sup>6</sup>

**VI. High-Cost, Interstate Access, and Interstate Common Line Support Certification**

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Under Sections 54.313, 54.314 and 54.904 of the Commission's Rules, as well as 47 C.F.R. § 54.809, carriers wishing to obtain universal service support must either be certified by the appropriate state commission or, where the state commission does not exercise jurisdiction, must self-certify with the Commission and the Universal Service Administrative Company ("USAC") as to their compliance with Section 254(e) of the Act. As explained above, the TRA does not exercise jurisdiction over CMRS carriers such as Nextel Partners for the purpose of ETC status designations. Therefore, Nextel Partners has submitted its high-cost, interstate access and interstate common line support certification letters with the Commission and with USAC.

**VII. Conclusion**

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Because the requirements for eligibility for designation as an eligible telecommunications carrier have been met, Nextel requests that the Commission promptly grant this Petition.

## ATTACHMENT 1

Designated Areas for which Nextel Partners  
seeks ETC designation in this Petition

1. Non-Rural ILEC Wire Centers

295185 BellSouth

47BLGPTNMA	BULLS GAP
47CHTGTNBR	CHATTNOOGA
47CHTGTNDT	CHATTNOOGA
47CHTGTNHT	CHATTNOOGA
47CHTGTNNS	CHATTNOOGA
47CHTGTNRB	CHATTNOOGA
47CHTGTNSM	CHATTNOOGA
47CLEVTNMA	CLEVELAND
47CLTNTNMA	CLINTON
47CLVLTNMA	CLARKSVL
47CRVLTNMA	COLLIERVL
47DNRGTNMA	DANDRIDGE
47FKLNTNCC	FRANKLIN
47FKLNTNMA	FRANKLIN
47FRDNTNMA	SOFREDONIA
47FYVLTNMA	FAYETTEVL
47GRVLTNXA	GREENEVL
47HCRDTNXA	HLSCRSSRDS
47HDVLTNMA	HENDERSNVL
47HHNWTNMA	HOHENWALD
47JCSNTNMA	JACKSON
47JFCYTNMA	JEFFERSNCY
47JLLCTNMA	JELLICO
47KNVLTNBE	KNOXVILLE
47KNVLTNFC	KNOXVILLE

47KNVLTNMA	KNOXVILLE
47KNVLTNWH	KNOXVILLE
47KNVLTNYH	KNOXVILLE
47LBNNTNMA	LEBANON
47LFLTTNMA	LAFOLLETTE
47LNCYTNMA	LENOIRCITY
47LODNTNMA	LOUDON
47LYLSTNMA	SPENCERMIL
47MAVLTNMA	MARYVILLE
47MCKNTNMA	MCKENZIE
47MMPHTNBA	MEMPHIS
47MMPHTNCK	MEMPHIS
47MMPHTNCT	MEMPHIS
47MMPHTNEL	MEMPHIS
47MMPHTNGT	MEMPHIS
47MMPHTNMA	MEMPHIS
47MMPHTNMT	MEMPHIS
47MMPHTNOA	MEMPHIS
47MMPHTNSL	MEMPHIS
47MMPHTNWW	MEMPHIS
47MNCHTNMA	MANCHESTER
47MRBOTNMA	MURFREESBO
47MRTWTNMA	MORRISTOWN
47MSCTTNMT	MASCOT
47NSVLTNAP	NASHVILLE
47NSVLTNBW	NASHVILLE
47NSVLTNCH	NASHVILLE
47NSVLTNDO	NASHVILLE
47NSVLTNHH	NASHVILLE
47NSVLTNIN	NASHVILLE
47NSVLTNMC	NASHVILLE

47NSVLTNMT	NASHVILLE
47NSVLTNST	NASHVILLE
47NSVLTNUN	NASHVILLE
47OKGVKYES	SOOAKGROVE
47OKRGTNMT	OAK RIDGE
47PSVWTNMT	PLEASANTVW
47PTLDTNMA	PORTLAND
47RRVLTNMA	ROGERSVL
47SANGTNMT	EASTSANGO
47SHCPTNXA	SHARPSCHPL
47SMYRTNMA	SMYRNA
47SNVLTNMA	SNEEDVILLE
47SRVLTNMA	SURGOINSVL
47SVVLTNMT	SEVIERVL
47SWTWTNMT	SWEETWATER
47TLLHTNMA	TULLAHOMA
47UNCYTNMA	UNION CITY
47WHBLTNMT	WHITEBLUFF
47WHHSTNMA	WHITEHOUSE
47WHPITNMA	WHITE PINE

2. Rural Telephone Company Study Area

**290567 United Inter-MT-TN**

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**Deleted:** Covered Wire Centers of Partially Covered

**Deleted:** 47BLCYTNXA

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**Deleted:** BAILEYTON

**Deleted:** 47BRSTTNXA

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<sup>7</sup> NOTE: Since *all* of the wire centers in United Inter-Mountain-TN's study area (SAC 290567) are covered, it is not necessary to list each of the wire centers covered.

V. Since Nextel Partners Serves Only a Portion of a Rural Telephone Company Service Area in Tennessee, Nextel Partners Requests That the FCC Propose A Redefinition of that Service Area

Nextel Partners covers only part of a rural telephone company study area, 290567 United Inter-MT-TN. Nextel Partners requests designation as an ETC for its entire service area in Tennessee, including specific portions of this rural study area that are covered by Nextel Partners. To this end, Nextel Partners has specified in **Attachment 1** with respect to the indicated rural telephone company study area the list of wire centers that Nextel Partners does cover in their entirety, and for which designation as an ETC is requested.

Nextel Partners specifically requests that the Commission propose a redefinition of the indicated rural telephone company study area so that the wire centers served by Nextel Partners may be designated as a single service area, and the remaining wire centers not served by Nextel Partners in each instance may be designated as a separate service area.

This proposed redefinition of the indicated rural telephone company service area is consistent with the Joint Board's analysis. Pursuant to 47 C.F.R. Section 54.207(c)(1), a petition to redefine a rural LEC service area must contain "an analysis that takes into account the recommendations of any Federal-State Joint Board convened to provide recommendations with respect to the definition of a service areas served by a rural telephone company." Nextel Partners has requested that the Commission redefine the service area of 290567 United Inter-MT-TN.

In *Federal-State Joint Board on Universal Service, Recommended Decision*, 12 FCC Rcd 87 (1996) ("*Recommended Decision*"), the Joint Board listed three factors that must be considered in the context of redefinition of a rural service area. First, it must be

considered whether the competitive carrier is attempting to “cream-skim” by proposing to serve only the lowest cost exchanges. *See Recommended Decision* at 180. In the case of Nextel Partners, Nextel Partners’ service territory is governed by the grant of license authority from the Federal Communications Commission under various site-specific and geographic area licenses. Nextel Partners’ build-out of its licensed service area in Tennessee has been carried out as mandated by the construction deadlines and population coverage requirements under Nextel Partners’ licenses, and does not reflect any intent on Nextel Partners’ part to serve only the lowest-cost exchanges within a rural telephone company study area.

Second, the special status of the affected rural carriers under the Communications Act must be considered, to determine how the public interest might be affected by the award of ETC status to Nextel Partners. *See id.* Nextel Partners has set forth a number of reasons why the grant of ETC status in the State of Tennessee would be in the interest of the public, *see supra*.

Third, there is the question of the administrative burden that might be inflicted on the rural ILEC if it is compelled to figure its costs on a basis other than its entire study area. But this “prong” of the Joint Board’s analysis is not directly applicable in this instance, since Nextel Partners is seeking redefinition of the indicated rural ILEC study area solely for the purpose of Nextel Partners’ designation as an ETC, and not for the purpose of refashioning the manner in which the affected carrier calculates its costs.

Accordingly, the considerations outlined by the Joint Board do not bar the grant of ETC status to Nextel Partners in the case of redefinition of the partially covered rural ILEC study area; in fact, since the addition of the innovative services and competitive

offerings Nextel Partners brings to the equation can only benefit the public interest, the application of the Joint Board's analysis in this instance mandates a favorable outcome.